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**Before the Energy Resources Conservation and Development
Commission of the State of California
1516 Ninth Street, Sacramento, CA 95814
1-800-822-6228 – www.energy.ca.gov**

**APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:
*WALSH BACKUP GENERATING FACILITY***

Docket No. 19-SPPE-02

ENERGY COMMISSION STAFF'S PREHEARING CONFERENCE STATEMENT

On April 30, 2020, the Walsh Backup Generating Facility Committee issued a Notice of Prehearing Conference and Evidentiary Hearing, Revised Scheduling Order, and Further Orders. In the Order, the Committee set the Prehearing Conference Statement and Exhibit List filing deadline for May 15, 2020. This document responds to the Committee's Order.

1. The subject areas that are complete and ready to proceed to Evidentiary Hearing.

All subject areas are complete and ready to proceed to hearing.

The purpose of the small power plant exemption proceeding is not to arrive at a decision to approve the project or not, but to determine whether to exempt the project from the Commission's jurisdiction. Therefore, topics and issues normally the subject of testimony in a Commission's licensing proceeding such as integration of permits and licenses issued by other agencies, implementation and verification of mitigation, consistency with other laws and regulations and implementation of the general construction and compliance conditions are not considered.

2. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony.

Staff proposes that all subjects can be adequately addressed through written testimony. Staff's documentary evidence for this Small Power Plant Exemption proceeding includes Commission Staff's Initial Study and proposed Mitigated Negative Declaration, Staff's response to comments on the Initial Study and Staff's response to Committee questions. However, if requested by the Committee, Staff is prepared to provide witnesses in the areas of Air Quality, Greenhouse Gases (GHG), Energy Resources and Public Health.

3. The subject areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor.

All subject areas are complete.

4. The subject areas that remain disputed and require adjudication, the issues in dispute, and the precise nature of the dispute for each issue.

No public comments were received on the Initial Study and Mitigated Negative Declaration. The County of Santa Clara Roads and Airports Department and BAAQMD submitted agency comments. The BAAQMD suggested project enhancements for staff to consider. The BAAQMD staff suggested an expanded health risk assessment analysis. After consulting with BAAQMD staff, a supplemental health risk assessment analysis was generated, consistent with BAAQMD staff recommendations, and is included in the response to Committee questions. Based on BAAQMD comments, staff also included additional discussion on the consistency of the project with long term state GHG reduction goals.

Intervenor, Robert Sarvey, filed two documents titled Reply Testimony and another document titled Opening Testimony which contained a mix of comments and data relating to Silicon Valley Power's (SVP) power content label and current infrastructure construction plans as well as reiterations of the BAAQMD comments. In the filings Mr. Sarvey argues that SVP will not have enough power to supply future demand and that somehow all electricity derived from natural gas within SVP portfolio will be directed to the project and other data centers.

Staff believes the Initial Study, staff's extensive response to comments and responses to Committee questions, fully address the issues raised and thus, no subject areas remain in dispute.

5. The identity of each witness the party intends to sponsor at the Evidentiary Hearing, the subject area(s) about which the witness(es) will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness and the time required to present testimony by each witness.

The scheduling order notes that witnesses are to provide a brief opening statement summarizing key points of their testimony. Staff intends to have the following witnesses available to make opening statements and provide direct testimony primarily to highlight key points in response to the Committee questions:

Dr. Ann Chu: **Public Health** (approximately 10 min)

Dr. Wenjun Qian, PE: **Air Quality/Public Health modeling** (approximately 5 min)

Dr. Tao Jiang, PE: **Air Quality/GHG emissions** (approximately 10 min)

Brewster Birdsall, PE: **Air Quality** (approximately 5 min)

To provide responses to issues raised by intervenor Robert Sarvey on the topic of Energy Resources the following staff will provide an opening statement and direct testimony:

Shahab Khoshmashrab, PE: **Energy Resources** (approximately 5 min)

Kenneth Salyphone, MS: **Energy Resources** (approximately 5 min)

Kevin Kolnowski from Silicon Valley Power will provide direct responses on the issues raised by Mr. Sarvey related to the adequacy of grid power serving the project and future RPS compliance. (approximately 10 min)

- 6. Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including questions regarding witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness. (Note: a party who fails to provide, with specificity, the scope, relevance, and time for questioning other parties' witness(es) risks preclusion from questioning witnesses on that subject area).**

Staff may have questions for Robert Sarvey related to statements made in his rebuttal and opening testimony (TN#s 32748, 32749, 232974) covering the topic of energy resources, SVP's power supply and Air Quality.

- 7. A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence during the Evidentiary Hearing and the technical subject areas to which they apply (see below for further details on Exhibit Lists).**

Staff will be offering the following documentary evidence into the evidentiary hearing record:

Exhibit 200	TN #232078	Staff's Initial Study and proposed Mitigated Negative Declaration	Covers all topics
Exhibit 201	TN#232611	Staff's Response to Comments on the Initial Study.	Covers issues raised by the BAAQMD primarily public health and GHG emissions.
Exhibit 202	TN #232684	Staff Declarations and Resumes.	All topics
Exhibit 203	TN #232977	Response to Committee Questions.	Public Health and GHG

8. Proposals for briefing deadlines or other scheduling matters.

Staff does not anticipate briefing being necessary, but if the Committee desires briefing, staff recommends a briefing due date ten working days after the filing of the proceeding's transcript.

DATED: May 15, 2020

Respectfully submitted,

/s/
JARED BABULA
Senior Attorney
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, CA 95814
Ph: (916) 651-1462
Jared.Babula@energy.ca.gov